

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:13-cr-0136-TWP-MJD
)	
ALEXANDER MENDEL,)	- 01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On July 18, 2023, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on June 26, 2023. Defendant Mendel appeared in person with his appointed counsel William Dazey. The United States appeared by MaryAnn Mindrum, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Megan Durbin.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1 and 18 U.S.C. § 3583:

1. The Court advised Defendant Mendel of his rights and provided him with a copy of the petition. Defendant Mendel orally waived a preliminary hearing.

2. Defendant Mendel admitted Violation Numbers 1, 2, 3, and 4. [Docket No. 151.]

3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 1 **“You must not unlawfully possess a controlled substance. You must refrain from any unlawful use of a controlled substance.”**

On June 12, 2023, Mr. Mendel submitted to a routine urinalysis, which returned positive for cocaine. When confronted with the result, Mr. Mendel admitted to using approximately \$150 worth of cocaine between June 9 and June 11, 2023.

As previously reported to the Court, Mr. Mendel was found to be in possession of cocaine at his residence on September 13, 2022. Due to the finding, he submitted to a urinalysis on that date, which returned positive for cocaine. On November 3, 2020, he submitted to a urinalysis which returned positive for cocaine. He admitted using the substance.

- 2 **“You shall disclose in advance all cellular phones, electronic devices, computers, and any hardware or software to the probation officer and may not access or use any undisclosed equipment.”**

As previously reported to the Court, Mr. Mendel admitted to being in possession of an unreported smart phone and PS5 gaming system on September 13, 2022. He further admitted to having the smart phone for at least one year.

- 3 **“You shall make a good faith effort to follow instructions of the probation officer necessary to ensure compliance with the conditions of supervision.”**

As previously reported to the Court, Mr. Mendel was directed multiple times to disclose all internet capable devices he knew to be in his possession during a home contact on September 13, 2022. He later admitted to having a laptop and additional smart phone in his possession that date, which he failed to disclose to this officer. The devices were unable to be recovered or examined.

- 4 **“You shall not sue or possess alcohol.”**

As previously reported to the Court, Mr. Mendel admitted to consuming alcohol on or about September 10, 2022.

4. The parties stipulated that:

- (a) The highest grade of violation was a Grade B violation.
- (b) Defendant's criminal history category was I.
- (c) The guideline range of imprisonment applicable upon revocation of supervised release, therefore, was 4 to 10 months' imprisonment.

5. The government recommended a sentence of 8 months with lifetime supervision to follow. Defendant's counsel argued for an executed sentence of 1 day of incarceration, followed by a term at the Volunteers of America. Defendant requested placement at any federal facility excluding MCC Chicago.

The Magistrate Judge, having considered the relevant factors in 18 U.S.C. § 3553(a), (*see* 18 U.S.C. § 3583(e)), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of 6 months with lifetime supervised release to follow. In addition to the mandatory conditions of supervision, the following conditions of supervised release should be imposed:

- 1. You shall report to the probation office in the federal judicial district to which you are released within 72 hours of release from the custody of the Bureau of Prisons.
- 2. You shall report to the probation officer in a manner and frequency directed by the court or probation officer.
- 3. You shall permit a probation officer to visit you at a reasonable time at home, or another place where the officer may legitimately enter by right or consent, and shall permit confiscation of any contraband observed in plain view of the probation officer.
- 4. You shall not knowingly leave the federal judicial district without the permission of the court or probation officer.
- 5. You shall answer truthfully the inquiries by the probation officer, subject to your 5th Amendment privilege.

6. You shall not meet, communicate, or otherwise interact with a person you know to be engaged, or planning to be engaged, in criminal activity. You shall report any contact with persons you know to be convicted felons to your probation officer within 72 hours of the contact.
7. You shall reside at a location approved by the probation officer and shall notify the probation officer at least 72 hours prior to any planned change in place or circumstances of residence or employment (including, but not limited to, changes in who lives there, job positions, job responsibilities). When prior notification is not possible, you shall notify the probation officer within 72 hours of the change.
8. You shall not own, possess, or have access to a firearm, ammunition, destructive device or dangerous weapon.
9. You shall notify the probation officer within 72 hours of being arrested, charged, or questioned by a law enforcement officer.
10. You shall maintain lawful full time employment, unless excused by the probation officer for schooling, vocational training, or other reasons that prevent lawful employment.
11. You shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
12. You shall make a good faith effort to follow instructions of the probation officer necessary to ensure compliance with the conditions of supervision.
13. As directed by the probation officer, you shall notify third parties who may be impacted by the nature of the conduct underlying your current or prior offense(s) of conviction and/or shall permit the probation officer to make such notifications and/or confirm your compliance with this requirement.

Justification: Conditions 1-13 are considered administrative in nature and will enable the probation officer to effectively supervise the offender in the community.

14. You shall participate in a program of treatment for sexual disorders, including periodic polygraph examinations, as directed by the probation officer. The treatment provider should determine the type and timing of such polygraph examinations. The court authorizes the release of the presentence report and available psychological evaluations to the treatment provider, as approved by the probation officer.

Justification: Given the offender's conviction for possession of child pornography, as well as his impulse control issues while on supervised release, this condition will allow for treatment services to assist in holding him accountable for maintaining sobriety.

15. You shall register as a sex offender with the appropriate authorities of any state in which you reside, are employed, or attend school.

Justification: The offender is required to register by Indiana law.

16. You shall not possess any child pornography or visual depictions of child erotica or nude minors. Any such material found in your possession shall be considered contraband and will be confiscated by the probation officer.

Justification: The offender has a history of possessing child pornography and erotica. This condition is necessary to protect the community.

17. You shall not have unsupervised meetings, activities, or visits, or intentional communications with any minor unless they have been disclosed to the probation officer and approved by the court. You shall not have supervised meetings, activities, visits, or intentional communications with any minor unless they have been approved by the probation officer. Before you may request approval for such meetings, activities, visits, or intentional communications (unsupervised or supervised), you must notify the person(s) having custody of any such minor(s) about the conviction in this case and the fact that you are under supervision.

Justification: Given the offender's history of child pornography and his lack of impulse control while on supervision, this condition is necessary to protect against the victimization of children and the community.

18. You shall submit to the search by the probation officer of your person, vehicle, office/business, residence, and property, including any computer systems and hardware or software systems, electronic devices, telephones, and Internet-enabled devices, including the data contained in any such items, whenever the probation officer has a reasonable suspicion that a violation of a condition of supervision or other unlawful conduct may have occurred or be underway involving you and that the area(s) to be searched may contain evidence of such violation or conduct. Other law enforcement may assist as necessary. You shall submit to the seizure of contraband found by the probation officer. You shall warn other occupants these locations may be subject to searches.

Justification: Given the offender's conviction for possession of child pornography, as well as his impulse control issues while on supervised release with regard to possession of unauthorized devices, this condition is necessary to hold him accountable for his actions, as well as to provide a protective measure to the community.

19. You shall consent, at the direction of the probation officer, to having installed on your computer(s), telephone(s), electronic devices, and any hardware or software, systems to monitor your use of these items. Monitoring will occur on a random and/or regular basis. You will warn other occupants or users of the existence of the monitoring hardware or software. To promote the effectiveness of this monitoring, you shall disclose in advance all cellular phones, electronic devices, computers, and any hardware or software to the probation officer and may not access or use any undisclosed equipment.

Justification: The offender has a history of possessing unauthorized devices to contact other persons. Given his conviction in the instant offense, as well as his violation activities while on supervised release, this condition will protect the online community from his predatory activities, as well as provide accountability for his actions.

20. You shall participate in a substance abuse or alcohol treatment program approved by the probation officer and abide by the rules and regulations of that program. The probation officer shall supervise your participation in the program (provider, location, modality, duration, intensity, etc.). The court authorizes the release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.
21. You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage.
22. You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per month. You shall not attempt to obstruct or tamper with the testing methods.
23. You shall not use or possess alcohol.
24. You shall not knowingly purchase, possess, distribute, administer, or otherwise use any psychoactive substances(eg.,synthetic marijuana, bath salts, Spice, glue, etc.) that impair a person's physical or mental functioning, whether or not intended for human consumption.

Justification: Conditions 20-24 will help to ensure the offender refrains from using illicit drugs and other substances, which may impact the effectiveness of prescribed mental health medications and otherwise reduce his inhibitions.

25. You shall participate in a mental health treatment program, as approved by the probation officer, and abide by the rules and regulations of that program. The probation officer, in consultation with the treatment provider, shall supervise participation in the program (provider, location, modality, duration, intensity, etc.). You shall take all mental health medications that are prescribed by your treating physician. The court authorizes the release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.

Justification: Offender has an extensive history of mental health diagnosis. This condition will ensure his mental health is monitored and addressed accordingly.

26. All employment shall be approved in advance by the probation officer.

27. You shall not be employed in any position or participate as a volunteer in any activity that involves unsupervised meetings, intentional communications, activities, or visits with minors except as disclosed to the probation officer and approved by the court.

Justification: Conditions 26 and 27 will enable this officer to determine if his employment will put him at risk to violate any other terms of supervision.

28. You shall not participate in unsupervised meetings, intentional communications, activities, or visits with persons you know to be a registered sex offender or to have been convicted of a felony sex offense involving an adult or minor, including any child pornography offense, except as disclosed to the probation officer and approved by the court. This condition is not intended to prevent you from participating in treatment programs or religious services with felons in such programs/services so long as the activity has been disclosed as described above.

Justification: This condition will help ensure the offender is making prosocial associations.

29. You shall not enter or remain at a place for the primary purpose of observing or contacting children under the age of 18.

Justification: The offender is not to have contact with persons under the age of 18, this will help ensure that conditions is not violated.

30. You shall pay the costs associated with the following imposed conditions of supervised release, to the extent you are financially able to pay: substance abuse treatment; substance abuse testing; sexual disorder assessment, treatment, and physiological testing; mental health treatment; and computer monitoring systems. The probation officer shall determine your ability to pay and any schedule of payment.

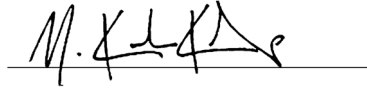
Justification: This will ensure the offender is able to continue his current treatment services through the VA.

Defendant reviewed the foregoing conditions, and they were reviewed by Defendant with his attorney. Defendant, on the record, waived reading of the above-noted conditions of supervised release.

With the agreement of the parties, Defendant Mendel was released pending the District Judge's action on this Report and Recommendation and designation by the Bureau of Prisons. The Magistrate Judge makes a recommendation of placement at any federal facility except for MCC Chicago.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the 14-day period to object to the Report and Recommendation.

Date: 7/20/2023

A handwritten signature in black ink, appearing to read "M. Klump", written over a horizontal line.

M. Kendra Klump
United States Magistrate Judge
Southern District of Indiana

Distribution:

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